

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

UNITED STATES OF AMERICA,)	
)	
v.)	Cr. No. 03-10046-MLW
)	
MANUEL CARDOSA,)	
Defendant.)	

MEMORANDUM AND ORDER

WOLF, D.J.

June 10, 2020

On May 29, 2020, the court allowed a motion to amend the petition to revoke defendant Manuel Cardosa's Supervised Release. See Dkt. No. 108. Also on May 29, 2020, the Magistrate Judge conducted Cardosa's initial appearance by videoconference, with the consent of Cardosa, and ordered his release subject to home confinement. See Dkt. No. 109.

On June 1, 2020, the court scheduled a June 11, 2020 hearing by videoconference on the amended petition. See Dkt. No. 113. On June 5, 2020, Cardosa filed a Motion to Continue Final Revocation Hearing, stating that he does not intend to admit the alleged violations relating to the pending state charge of operating under the influence and to uncharged criminal conduct. See Dkt. No. 114. Cardosa also stated that he does not waive his right to be physically present for the final revocation hearing and does not consent to proceeding by videoconference. See id.

In view of the foregoing the court is cancelling the June 11, 2020 hearing. That hearing will be conducted instead at the Moakley Federal Courthouse on June 23, 2020, at 1:30 p.m. Consistent with its usual, although not uniform, practice, the court does not intend to decide then alleged Violation I.A, which relates to the pending state charges against Cardoso, or alleged Violation I.B, which is evidently the uncharged criminal conduct Cardoso stated that he does not intend to admit. See June 4, 2020 Violation Report. Those charges will be addressed in the future.

The court intends to decide alleged Violations II-VIII at the June 23, 2020 hearing. Cardoso has admitted many of them in discussions with Probation. See id. In any event, the Federal Rules of Evidence do not apply in revocation proceedings. See F. R. Evid. 1101(d)(3). Therefore, the court may rely on trustworthy hearsay evidence. See United States v. Vixamar, 679 F. 3d 22, 30 (1st Cir. 2012); United States v. Taveras, 380 F.3d 532, 536-38 (1st Cir. 2004). The court does not foresee a need for testimony concerning the alleged violations to be adjudicated on June 23, 2020, except perhaps from Cardoso's Probation Officer.

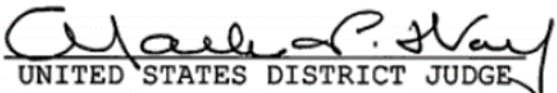
In view of the foregoing, it is hereby ORDERED that:

1. The June 11, 2020 hearing is CANCELLED.
2. A hearing on the amended petition to revoke Cardoso's Supervised Release shall be held at the Moakley Courthouse on June 23, 2020, at 1:30 p.m.

3. Probation shall provide forthwith to Cardoso, the government, and the court the evidence concerning alleged Violations II-VIII. See F. R. Cr. P. 32.1(b)(2)(B).

4. Counsel for Cardoso, for the government, and Probation shall confer and, by June 16, 2020, report, jointly if possible, regarding whether Cardoso stipulates to any of the alleged violations, and, if so, whether they have agreed to a joint recommendation concerning any of them. Cardoso shall also state whether in view of the fact that the court will not be adjudicating alleged Violation I on June 23, 2020, he consents to the hearing being conducted by videoconference.

5. By June 18, 2020, Cardoso shall provide to Probation, the government, and the court any evidence he requests the court consider concerning alleged Violations II-VIII in addition to the evidence produced by Probation.


UNITED STATES DISTRICT JUDGE